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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

10 ROBERT EARL JOHNSON,

11 Plaintiff,

12 v.

13 HAROLD CLARK, et al.,

14 Defendants.
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Case No C05-5401 FDB

ORDER DENYING MOTION FOR
RECONSIDERATION OF ORDER
DENYING RELIEF PURSUANT TO
RULE 60(b)(6)

17 This matter comes before the Court on Plaintiff Johnson's motion to recall the Court's order
18 denying Plaintiff's motion for relief from judgment pursuant to Rule 60(b)(6). Plaintiff requests
19 that he be provided additional time to reply to the Defendants' response to his Rule 60(b) motion.
20 Having reviewed the motion, response, and the record herein, the Court denies Plaintiff's motion
21 for to recall the order denying Rule 60(b) relief.

22 As noted in the order denying relief, the United States Court of Appeals for the Ninth
23 Circuit affirmed the dismissal of Plaintiff's civil rights action. To receive relief under Rule 60(b)(6),
24 the party must show both injury and that circumstances beyond its control prevented timely action
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1 to protect its interests. Lehman v. United States, 154 F.3d 1010, 1017 (9th Cir. 1998). The injury
2 Mr. Johnson claims to have suffered is that his civil rights complaint was dismissed under summary
3 judgment. Mr. Johnson cites no legal authority in support of his proposition that dismissal of his
4 complaint constitutes injury for the purpose of a Rule 60(b)(6) motion.

5 Rule 60(b)(6) “has been used sparingly as an equitable remedy to prevent manifest
6 injustice.” Lehman v. United States, 154 F.3d 1010, 1017 (9th Cir. 1998). To receive relief under
7 Rule 60(b)(6), the party must show both injury and that circumstances beyond its control prevented
8 timely action to protect its interests. Lehman, at 1017. It is a well-established principle that relief
9 such as that requested by Plaintiff requires him to show the existence of “extraordinary
10 circumstances.” Allmerica Financial Life Insurance & Annuity Co. v. Llewellyn, 139 F.3d 664,
11 666 (9th Cir. 1998). The injury Mr. Johnson claims to have suffered is that his civil rights complaint
12 was dismissed under summary judgment. Mr. Johnson cites no legal authority in support of his
13 proposition that dismissal of his complaint constitutes injury for the purpose of a Rule 60(b)(6)
14 motion, or that extraordinary circumstances exist that would warrant relief. Thus, providing
15 Plaintiff with additional time to reply would be futile as no legal basis exist for granting Rule 60(b)
16 relief.


17 ACCORDINGLY;

18 IT IS ORDERED:

19 Plaintiff’s Motion to recall the Court’s Order denying Rule 60(b) relief [Dkt. # 108] is

20 **DENIED.**

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22 DATED this 20th day of November, 2009.

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25 FRANKLIN D. BURGESS
26 UNITED STATES DISTRICT JUDGE